

**CHIROPRACTIC EXAMINING BOARD  
MADISON, WI  
MINUTES  
JUNE 19, 2003**

**PRESENT:** Steven Conway, Susan Feith, Char Glocke, Brouck Sleight,  
James Rosemeyer, James Weber

**STAFF PRESENT:** Kimberly Nania, Bureau Director; Legal Counsel, John Schweitzer  
and Jacquelynn Rothstein; Grace Schwingel; DOE Attorney Michael  
Berndt; DOE Health Team Supervisor; DOE staff: James Polewski,  
Steve Englebert, Sherrie Johnson, Greg Raube, Tara Albedyll

**GUESTS:** Mary Jo Jablonski, UW-Health  
Rachel Schraufnagel, WCA

**CALL TO ORDER**

James Rosemeyer, Chair, called the meeting to order at 8:00 a.m. A quorum of 6 members was present.

**AGENDA**

Additional material for the 9:00 a.m. cold laser therapy discussion was distributed to the board members.

**MOTION:** Susan Feith moved, seconded by Brouck Sleight, to approve the agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES OF MAY 15, 2003**

**Amendments to the Minutes of May 15, 2003:**

On page 7 of the agenda, under Regulatory Digest, John Schweitzer changed the article to read “*Termination* of Preceptorship Article – John Schweitzer”

**MOTION:** Brouck Sleight moved, seconded by James Weber, to approve the minutes of May 15, 2003, as amended. Motion carried unanimously.

## **APPROVAL OF MINUTES OF MAY 23, 2003 (TELECONFERENCE)**

**MOTION:** Steven Conway moved, seconded by Susan Feith, to approve the minutes of the May 23, 2003 teleconference as published. Motion carried unanimously.

### **ADMINISTRATIVE REPORT**

Bureau Director, Kimberly Nania, announced that in order to balance the work loads of the Department's Legal Counsels, Jacquelynn Rothstein will be taking over the responsibility of being the Board's Legal Counsel, replacing John Schweitzer. The Board welcomed Jacquelynn Rothstein and expressed its appreciation for the high caliber of work that John Schweitzer has provided the Board over the years. John Schweitzer will continue to work with Jacquelynn Rothstein for a while to ensure a smooth transition in providing necessary services to the Board.

Kimberly Nania also reported that the Department's fee study was not approved by the Joint Finance Committee. Therefore, there will not be any licensing fee increases. It was noted that the Department's budget has been further reduced by an additional \$800,000. Board members were asked for input on any ideas they would have to reduce costs without sacrificing protection of the public.

### **PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA**

TIMOTHY N. JOHNSON, D.C.

James Polewski, DOE attorney, presented the stipulation on Timothy Johnson. This matter will be deliberated on in closed session.

The Board requested that for future cases, James Polewski look at the possibility of having an automatic penalty imposed on licensees that fail to meet the conditions of the Board's order.

RANDALL J. HAMMETT, DC

DOE Attorney, Steven Gloe, presented the stipulation on Randall Hammett, D.C. The board will deliberate on this matter in closed session.

### **REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES AND PRESS RELEASES**

John Schweitzer reviewed the report on pending court cases with the Board.

### **STATUS AND UPDATE OF WCA PROPOSED LEGISLATION**

Legal Counsel, John Schweitzer, and board members who were present at the hearing of the WCA proposed legislation, reported on the hearing. Representatives from the Dietitians, and Physical Therapists Boards attended the hearing along with representatives from the Insurance trade and Medical Society. Deputy Secretary Mary Schlaefter represented the Department of Regulation &

Licensing. Dr. James Rosemeyer attended, representing the Chiropractic Board. Due to a time constraint, Kimberly Nania read Dr. James Rosemeyer's testimony at the hearing.

Each group represented presented their concerns. Deputy Secretary Mary Schlaefter will respond to the issues that were raised at the hearing.

**MOTION:** Char Glocke moved, seconded by Susan Feith, to request that the Department write a follow-up letter addressing concerns raised at the hearing. Motion carried unanimously.

Brouck Sleight chaired the meeting at 8:45 a.m. while James Rosemeyer left the meeting briefly to talk with the exam candidates.

#### **CORRESPONDENCE FROM KREBS CHIROPRACTIC OFFICE REGARDING WCA & PART IV**

Noted

#### **CHIROPRACTIC DEFINITION REPORT: DR. ROSEMEYER AND DR. CONWAY**

There was nothing to report at this time. This matter will be addressed at next month's meeting.

#### **PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA**

None

#### **DISCUSSION RELATING TO DELEGATION TO UNLICENSED PERSONS AND REVIEW OF TRAINING PROGRAM; J TECH BY ZEVEK**

The Board reviewed information regarding the J Tech computerized diagnostic equipment and discussed standardized training noting that for the Board to approve a training program it would need a syllabus, course outline, and the minimum number of hours that would be required.

At its next meeting, the Board will discuss the need for developing the standards for this area.

**MOTION:** Char Glocke moved, seconded by Susan Feith, to authorize Dr. James Weber to review the training programs for unlicensed chiropractic assistants. If a particular situation requires further clarification, Dr. Weber will bring the matter before the Board for its consideration. Motion carried unanimously.

**MOTION:** Brouck Sleight moved, seconded by Steven Conway, to authorize Legal Counsel, John Schweitzer, to obtain information on the course syllabus, the course outline, who teaches it, and the hours in the training. Legal Counsel will then provide this information to Dr. James Weber for his review. Motion carried unanimously.

### **CORRESPONDENCE: REGARDING PACE – WCA**

The Board discussed correspondence it had received regarding the appropriate process for the approval of continuing education courses. The Board discussed the WCA's concerns about having Providers of Approved Continuing Education (PACE) oversee the direction of continuing education of chiropractors in Wisconsin. James Rosemeyer will contact delegates from our district, in MN and IL, to see how this issue is being handled in other states and will report back to the Board at its next meeting.

The Board also discussed whether CE credit could be given for NAET, a technique that at this time is not within the scope of practice of chiropractic care in WI.

### **FYI - CORRESPONDENCE: REGARDING CCE RESPONSE TO NJ COMPLAINT**

Noted

### **CORRESPONDENCE: FRED S. KARPOFF, DMA REGARDING NAET**

The Board reviewed the correspondence from Fred Karpoff regarding his experience with NAET. It was noted that the Board would approve acupuncture, medical and osteopathic courses as meeting CE requirements even though they are not within the scope of practice of chiropractic.

**MOTION:** Brouck Sleight moved, seconded by James Weber, to deny credit for NAET to meet CE requirements. Motion carried unanimously.

The Board would like to continue its discussion of CE credit approvals at its next board meeting.

### **DISCUSSION AND INFORMATION REGARDING COLD LASERS – TELECONFERENCE CALL WITH DR. NELSON MARQUINA, PH.D., D.C. 9:00 A.M.**

Dr. Nelson Marquina gave a brief overview of his background and talked with the Board about the use of cold lasers, explaining what it is, what it is not, how it can be used, its benefits, and who can use it, noting that the original idea of lasers came from Albert Einstein.

At this time, the FDA has only approved laser for pain relief, but it has also been used to treat conditions such as carpal tunnel. Steven Conway would like to go to the schools to see what the schools are doing with laser techniques. The Board would like to discuss this issue of lasers at its next meeting to see how it fits into our statutes and rules relative to the scope of practice of chiropractic.

### **DISCUSSION OF RULES BY DR. CONWAY AND LEGAL COUNSEL (ONGOING)**

Legal Counsel, John Schweitzer, reviewed the amendments being made to clean up the Board's rules.

## **REGULATORY DIGEST**

There was a discussion, related to the current budget constraints, of various options available to get the information that is disseminated through the Regulatory Digest to licensees. The idea of putting the Regulatory Digests on-line on the Department's website was discussed. Char Glocke suggested the possibility of merging several related professions into one Regulatory Digest. The Board felt it is important to keep professionals informed of changes as they occur and therefore, was not in favor of putting out fewer Regulatory Digests per year.

### **CORRESPONDENCE REGARDING PROVIDING CHIROPRACTICE SERVICES AT A LOCAL "EVENT"**

Legal Counsel, John Schweitzer, handed out a letter from Matt Christiansen, D.C. regarding a request to provide chiropractic services at a Harley Event. The Board authorized Legal Counsel to respond indicating that the Board approves this request.

### **CORRESPONDENCE REGARDING POLICY AND PROCEDURE AS A CONDITION OF BEING A PROVIDER WITH AN HMO**

The Board reviewed correspondence it received regarding the policy and procedure as a condition of being a provider with an HMO. The Board authorized Legal Counsel, John Schweitzer, to respond to this correspondence suggesting that they may want to report this to the Insurance Commissioners Office.

### **CORRESPONDENCE QUESTION REGARDING CHIROPRACTOR TAKING X-RAYS**

Legal Counsel, John Schweitzer, brought several questions he had received to the Board for their review. Legal Counsel will respond to the questions, as authorized by the Board, regarding the use of MRIs/x-ray/radiology, as it relates to the practice of chiropractic. Specifically, the Board clarified its requirement for four (4) CE hours of radiology as intended to improve chiropractor's skills in taking and interpreting films. Consequently, a course in MRI technique would not satisfy the requirement.

## **CLOSED SESSION**

**MOTION:** Steven Conway moved, seconded by Brouck Sleight, to adjourn to closed session pursuant to Wisconsin state statutes 19.85(1)(a)(b)(f) and (g) to consult with Legal Counsel regarding the Suit by WCA, deliberate on proposed stipulations, endorsement application review, and DOE case status reports. Motion carried by roll call vote: Steven Conway-yes; Susan Feith-yes; Char Glocke-yes; Brouck Sleight-yes; James Rosemeyer-yes; James Weber-yes.

Open Session recessed at 11:00 a.m.

## **RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

**MOTION:** James Weber moved, seconded by Steven Conway, to reconvene into Open Session at 12:30 p.m. Motion carried unanimously.

## **VOTE ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION**

### **CONSULTING WITH LEGAL COUNSEL REGARDING THE SUIT BY WCA AGAINST THE EXAMINING BOARD**

Mr. Bruce Olsen discussed the suit by the WCA against the Chiropractic Examining Board.

### **DELIBERATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA**

TIMOTHY N. JOHNSON, D.C.

**MOTION:** Brouck Sleight moved, seconded by Susan Feith, to adopt the Findings of Fact, Conclusions of Law and Order in the matter pertaining to Timothy N. Johnson, D.C. Motion carried unanimously.

RANDALL J. HAMMETT, DC

**MOTION:** Brouck Sleight moved, seconded by Steven Conway, to adopt the Findings of Fact, Conclusion of Law and Order in the matter pertaining to Randall J. Hammett, D.C. Motion carried unanimously.

### **ENDORSEMENT APPLICATION REVIEW**

THOMAS B. SATO

**MOTION:** James Weber moved, seconded by Brouck Sleight, to table the application of Thomas B. Sato until the Board receives and reviews the Texas discipline for him. Motion carried unanimously.

### **DIVISION OF ENFORCEMENT – CASE STATUS REPORT**

**MOTION:** Steven Conway moved, seconded by Char Glocke, to close 03 CHI 017 for P2 – compliance gained. Motion carried unanimously.

**MOTION:** Steven Conway moved, seconded by Char Glocke, to close 03 CHI 039 for P2 – compliance gained. Motion carried unanimously.

**MOTION:** Steven Conway moved, seconded by Char Glocke, to close 02 CHI 041 for no violation. Motion carried unanimously.

**MOTION:** Steven Conway moved, seconded by Char Glocke, to close 02 CHI 060 for no violation. Motion carried unanimously.

**MOTION:** Steven Conway moved, seconded by Char Glocke, to close 02 CHI 003 for no violation. Motion carried unanimously.

The Board discussed with Attorney Michael Berndt its desire to have an automatic discipline that is enforced if a licensee does not comply with a board order. Attorney Michael Berndt indicated that some situations lend themselves to this approach, while others do not. The concern would be having a large “automatic” impact on a licensee for a relatively minor violation.

### **CONSULT WITH LEGAL COUNSEL**

Noted

### **DISCUSSION REGARDING PART IV EXAM**

Noted

### **CONSIDERATION OF ADOPTION OF “EMERGENCY” RULES RELATING TO THE PRACTICAL EXAMINATION**

**MOTION:** Steven Conway moved, seconded by Susan Feith, to adopt the rules amending Wis. Admin. Code §§Chir 2.03 (2) (intro), 2.07 (3) 2.09 and 2.11 (2) and (3) relating to approval of a practical examination prepared, administered and graded by a test service provider under the authority granted to the Chiropractic Examining Board by Wis. Stat. 440.07. Brouck Sleight opposed the motion. Motion carried.

### **DOE SIGNATURE COLLECTION FOR STIPULATIONS AND ADMINISTRATIVE WARNINGS**

### **INFORMATIONAL ITEMS**

James Rosemeyer will not be available for the August meeting.

### **ADJOURNMENT**

**MOTION:** Brouck Sleight moved, seconded by Susan Feith, to adjourn the meeting at 12:40 p.m. Motion carried unanimously.

**Next Meeting: Thursday, July 17, 2003 – 8:00 a.m.**